

26 repair, restore, or replace such property or to mitigate against
 27 further damage to such property.

28 (b) "Disputed amount" means the difference between the
 29 presuit settlement demand and the presuit settlement offer.

30 (c) "Judgment obtained" means damages recovered, if any,
 31 but does not include any amount awarded for interest, attorney
 32 fees, or costs.

33 (d) "Presuit settlement demand" means the presuit
 34 settlement demand made by the assignee in the written notice of
 35 intent to initiate litigation as required by paragraph (7) (a).

36 (e) "Presuit settlement offer" means the presuit
 37 settlement offer made by the insurer in its written response to
 38 the notice of intent to initiate litigation as required by
 39 paragraph (7) (b).

40 (2) An assignment agreement that does not comply with this
 41 subsection is invalid and unenforceable.

42 (a) An assignment agreement must:

43 1. Be in writing and executed concurrently by and between
 44 a named insured and the assignee.

45 2. Contain a provision that allows the assignor to rescind
 46 the assignment agreement, without a penalty, rescission fee, or
 47 cancellation fee, by having the assignor sign a notice within 7
 48 business days after the execution date of the assignment
 49 agreement and by notifying the assignee of the rescission. The
 50 assignor may rescind the assignment agreement for any reason

51 during the 7-day period. The assignor shall be responsible for
 52 payment for contracted work performed before the agreement is
 53 rescinded.

54 3. Contain a provision requiring the assignee to provide a
 55 copy of the executed assignment agreement to the insurer within
 56 3 business days after the date the assignment agreement is
 57 executed or the date work begins, whichever is earlier. Delivery
 58 may be made:

59 a. By personal service, overnight delivery, or electronic
 60 transmission, with evidence of delivery in the form of a receipt
 61 or other paper or electronic acknowledgement by the insurer; or

62 b. To the location designated for receipt of such
 63 agreements as specified in the policy.

64 4. Contain a written, itemized, per-unit cost estimate of
 65 the services to be performed by the assignee. If the statement
 66 of services includes a claim for water restoration services, the
 67 statement must also include proof that the assignee or
 68 subcontractor of the assignee possesses a valid certification
 69 from an entity that requires water remediation to be performed
 70 according to a standard that is approved by the American
 71 National Standards Institute.

72 5. Relate only to work to be performed by the assignee for
 73 services to protect, repair, restore, or replace dwellings or
 74 structures or to mitigate against further damage to such
 75 property.

76 6. Contain the following notice in uppercase 14-point
 77 type:

78
 79 YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR
 80 INSURANCE POLICY TO A THIRD PARTY WHICH MAY RESULT IN LITIGATION
 81 AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS DOCUMENT
 82 BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT
 83 WITHOUT PENALTY WITHIN 7 BUSINESS DAYS AFTER THE DATE THIS
 84 AGREEMENT IS EXECUTED. HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF
 85 ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS RESCINDED.
 86 THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE
 87 DUTIES REQUIRED UNDER YOUR PROPERTY INSURANCE POLICY.

88 (b) An assignment agreement may not contain:

89 1. A penalty or fee for rescission of the assignment
 90 agreement pursuant to subparagraph (a)2.;

91 2. A check or mortgage processing fee;

92 3. A penalty or fee for cancellation of the assignment
 93 agreement; or

94 4. An administrative fee.

95 (3) In a claim arising under an assignment agreement, an
 96 assignee has the burden to demonstrate that the insurer is not
 97 prejudiced by the failure of the assignee to:

98 (a) Maintain records of all services provided under an
 99 assignment agreement.

100 (b) Cooperate with the insurer in the investigation of a

101 claim.

102 (c) Provide the insurer with requested records and
 103 documents related to the services provided and to permit the
 104 insurer to make copies of such records and documents.

105 (d) Deliver a copy of the executed assignment agreement to
 106 the insurer within 3 business days after the execution of the
 107 assignment agreement or work has begun, whichever is earlier.

108 (4) An assignee:

109 (a) Must provide the assignor with accurate and up-to-date
 110 revised statements of the scope of work to be performed as
 111 supplemental or additional repairs are required.

112 (b) Must perform the work to conform with current and
 113 accepted industry standards.

114 (c) May not seek payment from the assignor more than the
 115 applicable deductible under the policy unless the assignor chose
 116 to have additional work performed at the assignor's own expense.

117 (d) Must, as a condition precedent to filing suit under
 118 the policy, and if required by the insurer, submit to
 119 examinations under oath and recorded statements conducted by the
 120 insurer or the insurer's representative which are reasonably
 121 necessary, based on the scope of the work and the complexity of
 122 the claim, and limited to matters related to the services
 123 provided, the cost of the services, and the assignment.

124 (e) Must, as a condition precedent to filing suit under
 125 the policy, and if required by the insurer, participate in

126 appraisal or other alternative dispute resolution methods in
 127 accordance with the terms of the property insurance policy.

128 (5) An assignment agreement and this section do not modify
 129 or eliminate any term, condition, or defense relating to any
 130 managed repair arrangement provided for in the property
 131 insurance policy.

132 (6) Notwithstanding any other provision of law, the
 133 acceptance by an assignee of an assignment agreement is a waiver
 134 by the assignee and subcontractors of the assignee, of claims
 135 against named insureds for payments arising from the assignment
 136 agreement. The assignee and subcontractors may not collect or
 137 attempt to collect money from, maintain any action at law
 138 against, or claim a lien on the real property of a policyholder
 139 or report a policyholder to a credit agency for payments arising
 140 from the assignment agreement. However, named insureds remain
 141 responsible for the payment of any deductible amount under an
 142 insurance policy, any contracted work performed before the
 143 assignor rescinded the assignment agreement, and any betterment
 144 ordered and approved by the assignor. Such waiver remains in
 145 effect after rescission of the assignment agreement by the
 146 assignor or after a determination that the assignment agreement
 147 is invalid.

148 (7) (a) An assignee must provide the insurer and the
 149 assignor with a written notice of intent to initiate litigation
 150 before filing suit under the policy. Such notice must be served

151 at least 10 business days before filing a complaint, but may not
 152 be served before the insurer has made a determination of
 153 coverage under s. 627.70131. The notice must specify the damages
 154 in dispute, the amount claimed, and any presuit settlement
 155 demand. Concurrent with the notice, and as a precondition to
 156 filing a complaint, the assignee must provide the insurer and
 157 the assignor a detailed written invoice or estimate, including
 158 itemized information on equipment, materials, and supplies; the
 159 number of labor hours; and, in the case of work performed, proof
 160 the work has been performed in accordance with current industry
 161 standards. If the invoice or estimate includes a claim for water
 162 restoration services, the assignee must provide proof of the
 163 certification required by subparagraph (2)(a)4.

164 (b) An insurer must respond in writing to the notice
 165 within the 10-day period specified in paragraph (a) by making a
 166 presuit settlement offer or requiring appraisal or other method
 167 of alternative dispute resolution as may be provided in the
 168 policy. An insurer must have a procedure for the prompt
 169 investigation, review, and evaluation of the dispute stated in
 170 such notice and must investigate the claims contained in the
 171 notice in accordance with the Florida Insurance Code.

172 (8) Notwithstanding any other law to the contrary, in a
 173 proceeding related to an assignment agreement for post-loss
 174 claims arising under a residential property insurance policy,
 175 attorney fees and costs may only be recovered by an assignee

176 under s. 57.105 and this subsection.

177 (a) If the difference between the judgment obtained by the
178 assignee and the presuit settlement offer is less than 25
179 percent of the disputed amount, the insurer is entitled to an
180 award of reasonable attorney fees. If the difference between the
181 judgment obtained by the assignee and the presuit settlement
182 offer is at least 25 percent but less than 50 percent of the
183 disputed amount, no party is entitled to an award of attorney
184 fees. If the difference between the judgment obtained by the
185 assignee and the presuit settlement offer is at least 50 percent
186 of the disputed amount, the assignee is entitled to an award of
187 reasonable attorney fees.

188 (b) If the insurer fails either to inspect the property or
189 to provide written or verbal authorization for repairs within 7
190 calendar days after the first notice of loss, the insurer waives
191 its right to an award of attorney fees under this subsection. If
192 the failure to inspect the property or to provide written or
193 verbal authorization for repairs was the result of an event for
194 which the Governor had declared a state of emergency pursuant to
195 s. 252.36, factors beyond the control of the insurer which
196 reasonably prevented an inspection or written or verbal
197 authorization for repairs, or the named insureds' failure or
198 inability to allow an inspection of the property after a request
199 by the insurer, the insurer does not waive its right to an award
200 of attorney fees under this subsection.

- 201 (9) This section does not apply to:
- 202 (a) An assignment, transfer, or conveyance granted to a
- 203 subsequent purchaser of the property with an insurable interest
- 204 in the property following a loss;
- 205 (b) A power of attorney under chapter 709 that grants to a
- 206 management company, family member, guardian, or similarly
- 207 situated person of an insured that includes the authority to act
- 208 on behalf of an insured as it relates to a property insurance
- 209 claim; or
- 210 (c) Liability coverage under a property insurance policy.
- 211 (10) The office shall require each insurer to report by
- 212 January 30, 2020, and each year thereafter, data on each
- 213 residential property claim paid in the prior calendar year
- 214 pursuant to an assignment agreement. Such data must include, but
- 215 are not limited to, specific data about claims adjustment and
- 216 settlement timeframes and trends, broken out by whether
- 217 litigated or not litigated; by loss adjustment expenses; and by
- 218 the amount and type of attorney fees incurred or paid.
- 219 (11) This section applies to assignment agreements
- 220 executed after July 1, 2017.

221 Section 2. Section 627.422, Florida Statutes, is amended

222 to read:

223 627.422 Assignment of policies or post-loss benefits.—A

224 policy may be assignable, or not assignable, as provided by its

225 terms.

226 (1) LIFE OR HEALTH INSURANCE POLICIES.—Subject to its
227 terms relating to assignability, any life or health insurance
228 policy under the terms of which the beneficiary may be changed
229 upon the sole request of the policyowner may be assigned either
230 by pledge or transfer of title, by an assignment executed by the
231 policyowner alone and delivered to the insurer, whether or not
232 the pledgee or assignee is the insurer. Any such assignment
233 shall entitle the insurer to deal with the assignee as the owner
234 or pledgee of the policy in accordance with the terms of the
235 assignment, until the insurer has received at its home office
236 written notice of termination of the assignment or pledge or
237 written notice by or on behalf of some other person claiming
238 some interest in the policy in conflict with the assignment.

239 (2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE
240 POLICIES.—A personal lines residential property insurance policy
241 or a commercial residential property insurance policy may not
242 prohibit the assignment of post-loss benefits.

243 Section 3. This act shall take effect July 1, 2017.